

In re) Fair Hearing No. 10,746
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Appeal of)

The petitioner appeals the decision by the Department of Social Welfare reducing his ANFC benefits. The issue is whether the petitioner's eighteen-year-old son qualifies as an "eligible child" under the pertinent regulations.

The facts are not in dispute. One of the petitioner's children turned eighteen years old on August 7, 1991. The boy is attending high school and is in the 11th grade. He is not expected to graduate high school until Spring, 1993, at the earliest--at which time he will have been nineteen years old for nearly a year.

ORDER

REASONS

W.A.M. § 2301 provides that to be eligible for ANFC, a child must be under the age of eighteen, or age eighteen and a full-time high-school student, provided he or she is

expected to complete high school before reaching his or her nineteen birthday. This provision is based on federal and state statutory definitions of eligibility. 42 U.S.C. § 606(a) and 33 V.S.A. § 2701; see also 45 C.F.R. § 233.20(b)(2)(ii).

Personally, the hearing officer and the board fully agree with the petitioner that the above provision is harsh, short-sighted, and counterproductive to reducing welfare dependence. However, neither he nor the board have the statutory authority to reverse this federally-mandated provision. 3 V.S.A. § 3091(d) and Fair Hearing No. 19. Since it is clear that the Department's decision in this case is in accord with applicable law, it must be affirmed.

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